

AMENDMENTS TO ARTICLE 6

- Section 6-400 Administration
- Section 6-700 Site Plan
- Section 6-1216 Minor Rezoning
- Section 6-2000 Conservation Design

ATTACHMENT 13

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5 **Division B: Administration and**
6 **Enforcement of Ordinance and Notice of Public Hearings**

6 **Section 6-400 Administration.**

7 **6-401**

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10 **Zoning Administrator.** It shall be the responsibility of the Zoning Administrator
11 to administer, interpret and enforce the provisions of this Ordinance. The Zoning
12 Administrator shall be guided in all of his actions pursuant to this Ordinance by the
13 terms, purposes, intent and spirit of this Ordinance. The Zoning Administrator
14 may be assisted in the enforcement of this Ordinance by the Health Officer, Sheriff
15 and all other officials of Loudoun County, Virginia, pursuant to their respective
16 fields. Specifically, his duties and powers shall include:

- 17 (A) To receive and/or review:
18 (1) Applications for variances.
19 (2) Notices of appeal to the BZA.
20 (3) Applications for certificates of occupancy.
21 (4) Applications for zoning permits.
22 (5) All other applications, certifications, or materials required by
23 this Ordinance to be submitted to the Zoning Administrator.
24
25 (B) To issue zoning permits where the requirements of this Ordinance have
26 been met.
27
28 (C) To issue interpretations of this Ordinance upon proper application.
29 Such interpretations shall be binding as to the applicant and as to the
30 specific facts presented in the application for interpretation after the
31 completion of the thirty (30) day appeal period. In administering this
32 Ordinance and rendering determinations as to the uses permitted or
33 allowed by special exception in the various zoning districts, the Zoning
34 Administrator shall have the power and authority to render decisions as
35 to whether a specific proposed use, although not listed as permitted or
36 allowed by special exception, is so substantially similar in substance
37 and effect to a permitted use or a use allowed by special exception,
38 that it should be allowed as if expressly permitted or allowed by
39 special exception. Such interpretations shall include notification of
40 appeal procedures and timelines.
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42 (D) To conduct inspections of buildings, structures and uses of land to
43 determine compliance with the provisions of this Ordinance.

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- 1 (E) To maintain accurate records of proffered conditions as required by
2 Section 6-1209 of this Ordinance.
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4 (F) To enforce the provisions of this ordinance, the decisions of the BZA and
5 conditions and proffers subject to which approvals of the BZA, Planning
6 Commission and Board of Supervisors were made.
7
8 (G) To perform such other duties and functions as may be required by this
9 Ordinance and the Board of Supervisors.
10
11 (H) To maintain the inventory of buildings and structures within an Historic
12 Site or Historic and Cultural Conservation district as required by Section
13 6-1808.
14
15 (I) To maintain and make available for public inspection and copying the
16 official Zoning Map, the Zoning Ordinance, and the minimum
17 submission requirements adopted by Board of Supervisors resolution.
18
19 (J) To maintain a compilation of the interpretations and opinions of the
20 Zoning Administrator for public review.
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22 **6-402 Fees.** The County Administrator shall recommend and the Board of Supervisors
23 shall adopt a schedule of fees to be paid upon the filing of each application
24 specified in this Ordinance. Application fees are hereby waived for the following:
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- 26 (A) Applications for a requested amendment from any district to an Historic
27 Overlay district.
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29 (B) Applications for requested amendment from any district to an AR-2
30 district.
31
32 (C) Applications for amendment, special exception, or commission permit
33 sought by the following governmental agencies:
34
35 (1) Loudoun County School Board.
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37 (2) Loudoun County Sanitation Authority.
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39 (3) Fire and rescue companies serving Loudoun County.
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41 (4) Any agency, board or division acting in the name of the Board
42 of Supervisors of Loudoun County.
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(A) **Submission Requirements.** The Board of Supervisors shall adopt by resolution regulations enumerating those materials required to be included with each application provided for in this Ordinance, which materials shall constitute the minimum submission requirements for such application and be consistent with the requirements of this Ordinance. Such submission requirements shall include a letter signed by the applicant and by the owner of the property granting the right of entry upon the property to the Zoning Administrator, law enforcement agents, and County inspectors for the purpose of inspecting, and bringing law enforcement to the property, during the term of any permit which may be issued. Such submission requirements shall also include, in the case of any application for a Zoning Map Amendment, Zoning Ordinance Modification, Zoning Concept Plan Amendment, Special Exception, Variance, Site Plan or Zoning Permit, the provision of satisfactory evidence from the Treasurer's Office that any real estate taxes due and owed to the County which have been properly assessed against the property have been paid. Additionally, such submission requirements shall also include, in the case of an application for Zoning Map Amendment, Zoning Concept Plan Amendment, Zoning Ordinance Modification, Special Exception or Variance, a completed Disclosure of Real Parties In Interest Form disclosing the equitable ownership of the real estate to be affected. Revisions to the list of those materials required necessitated by an amendment to this Ordinance shall be attached to such amendment for concurrent consideration and adoption by resolution of the Board of Supervisors.

(B) **Rezoning Plat.** If the application is a reclassification to a non-planned development district, a rezoning plat shall be required.

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Speakers at Public Hearings. All witnesses and speakers presenting facts and evidence at any public hearing shall provide their name and address and affiliation, if any, for the record. At the discretion of the person presiding over the hearing, witnesses or speakers may be required to give oath or affirmation regarding the truth of their statements.

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Inactive Applications. Any Zoning Map Amendment application, Zoning Modification application, or Concept Plan Amendment application officially accepted by the County for processing but which has had processing suspended either by request of the applicant or by having no contact or activity occur in regards to the application by the applicant for a period of twelve months or any Special Exception application officially accepted by the County for processing but which has had such processing suspended either by request of the applicant or by having no contact or activity occur in regards to the application by the applicant for a period of six months shall be deemed inactive.

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An application may remain inactive for up to three (3) years at the end of which period it will be processed to a final decision. If an applicant wishes to reactivate their application prior to the end of this three (3) year period, they must notify the County in writing of their intent to proceed with their application, grant the County an appropriate timeline extension and pay a reactivation fee as established by the Board of Supervisors.

6-406 Full Disclosure of Development Plans. Prior to the execution of an offer to buy a new home, sellers of new homes, or their agents, shall provide to home buyers access to current copies of the following:

- (A) Approved subdivision record plat;
- (B) All development plans approved for the property as part of a Zoning Map Amendment, Zoning Concept Plan Amendment, Zoning Ordinance Modification, or Special Exception;
- (C) All proffered conditions accepted by the Board of Supervisors as part of the zoning approval for the development; and
- (D) The applicable Comprehensive Plan for the area of the County.

Such documents shall be located on the site of the property encompassed by the subdivision, plat, or development in which the property for sale is located, or at an office in its immediate vicinity. The sellers of the new home, or their agents, shall notify the prospective home buyers of the location of these documents and provide a reasonable opportunity for such prospective buyers to inspect these documents. Prospective home buyers shall sign a statement stating that they have reviewed or have been offered the opportunity to review these documents. Said statements shall be kept on file with the builder for a period of three years.

6-407 Map Interpretations and Boundary Determination.

- (A) The environmental overlay districts and steep slope maps are intended to show the location of environmental resources in the County, including the following:
 - (1) Mountainside Development Overlay District (MDOD) Map, described in Section 4-1600;
 - (2) Limestone Conglomerate Overlay District (LOD) Map, described in Section 4-1900;
 - (3) River and Stream Corridor Overlay District (RSCOD) Map, described in Section 4-2000; Floodplain Overlay District; described in Section 4-1500; and

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- (4) Loudoun County Steep Slopes Map, described in Section 5-1508.

The Zoning Administrator, in consultation with the Department of Building and Development, is charged with making necessary cartographic interpretations of those maps at the request of the applicant or on his/her own initiative. The Zoning Administrator is authorized to interpret the exact location of the boundaries if there appears to be a conflict between the mapped resource boundary, elevations, and actual physical conditions. The Zoning Administrator may require information from the applicant, including, but not limited to a topographic survey and/or engineering studies in conformance with the provisions of the Facilities Standards Manual.

- (B) The applicant may appeal interpretations to the Board of Zoning Appeals in accordance with the provisions of Section 6-1700, "Appeals," of the Zoning Ordinance.

6-408 Modifications.

(A) ~~Intent and Purpose.~~ A modification is intended to promote conservation design and protection of primary conservation areas and steep slopes by allowing the applicant to seek minor adjustments in applicable environmental standards to preserve the maximum amount of most significant resources. Applicants may only apply for modifications from the following environmental standards:

- (1) ~~Mountainside Development Overlay District (MDOD), Section 4-1600;~~
(2) ~~Limestone Conglomerate Overlay District (LOD), Section 4-1900;~~
(3) ~~River and Stream Corridor Overlay District (RSCOD), Section 4-2000;~~
(4) ~~Steep Slope Standards, Section 5-1508; and~~
(5) ~~Conservation Design, Section 6-2000.~~

(B) ~~Limits on Scope of Modifications.~~ Only modifications from dimensional standards (e.g., setbacks, height, distances) may be granted. No modification shall alter the required dimensional standards by more than ten percent (10%) for the purpose of promoting overall compliance with environmental protection standards.

(C) ~~Review Criteria.~~ The applicant shall submit documentation with evidence that the modification meets the following criteria:

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1 (1) The modification will cause no significant adverse environmental
2 impacts to primary conservation areas or steep slopes.

3 (2) The modification will result in protection of the maximum
4 amount of most significant resources on a site.

5 (3) The modification will result in an innovative design, improve
6 upon existing regulations, or otherwise exceed the public purpose
7 of the existing regulations.

8 (D) **Review Procedure.** All applications for a modification shall be
9 submitted in writing to the Zoning Administrator.

10 (E) For any modification that does not comply with the standards in this
11 Section 6-408, or that exceeds the ten percent (10%) limit, the applicant
12 may submit a request for variance, as governed by Section 6-1607,
13 “Standards for Variances,” of this Zoning Ordinance.

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1 **Section 6-700 Site Plan Review.**

2 **6-701 Site Plan Required.**

3 Site plan approval is required prior to the development of any land when
4 the development or land falls within the following categories:

- 5 (A) All uses in the commercial districts.
- 6 (B) All uses in the industrial districts.
- 7 (C) All nonresidential uses in the AR-1, AR-2, RR-1 and RR-2
8 Districts, including all permitted uses within the “agriculture
9 support and services related to agriculture, horticulture, and animal
10 husbandry” use category, but not including basic agricultural,
11 horticulture, and animal husbandry permitted uses,
- 12 (D) All permitted uses in the residential districts, except for
13 agricultural structures and single family attached and detached
14 dwellings, and accessory uses and structures allowed under Section
15 5-101.
- 16 (E) Those special exception uses and structures which require a site
17 plan.
- 18 (F) Any development in which any required off-street parking space is
19 to be used by more than one establishment.
- 20 (G) When an alteration or amendment is proposed to the site
21 improvements or design of a previously approved site plan.
- 22 (H) When an existing residential use is proposed for a change to a
23 commercial, industrial, or multi-family residential use.
- 24 (I) All public buildings and institutions.
- 25 (J) All other uses involving a building required to be reviewed by the
26 Planning Commission under Section 15.2-2232 of the Code of
27 Virginia, as amended.
- 28 (K) Above-ground structures associated with a public utility, utility
29 substation, water or sewer pumping station, water or sewer
30 treatment facility or commercial communication tower.
- 31 (L) Temporary or permanent parking uses and parking structures.

- 1 | (B) **Staff Review of Application. Referrals (6-1204 (A)).** Upon acceptance
2 | of the application, the Planning Director shall forward a copy of the
3 | application to the Department of Building and Development, the Zoning
4 | Administrator, and the Virginia Department of Transportation, and shall
5 | set the application for public hearing to be held at the first Planning
6 | Commission public hearing scheduled to occur after the sixtieth (60th)
7 | day following acceptance of the application.
- 8 | (C) **Referral Responsibilities (6-1204 (B)).** Each reviewing agency shall,
9 | within thirty (30) calendar days of the receipt of a referral, prepare a staff
10 | report which sets out in writing its comments and recommendations and
11 | shall forward such report to the Director of Planning.
12 |
13 | (D) **Review of Referrals (6-1204 (C)).** Referral comments shall be reviewed
14 | by the Director of Planning within fifty (50) days after an application has
15 | been accepted. The Planning Director shall forward to the applicant
16 | within five (5) working days of receipt of all referral comments and a
17 | written review of the issues raised by the application.
18 |
19 | (E) **Hearing Before Board of Supervisors (6-1212).** No later than forty
20 | (40) calendar days after the Planning Commission public hearing, a duly
21 | noticed public hearing shall be held by the Board of Supervisors
22 | regarding an application for rezoning to the AR-2 District.
23 |

24 | **6-1216 RR-1 and RR-2 District Minor Rezoning - Special Provisions.** The following
25 | provisions of Division D: Special Development Approvals shall be modified as
26 | follows for applications to amend the zoning map to rezone property to the RR-1
27 | or RR-2 Districts:
28 |

- 29 | (A) **Pre-Application Conference (6-1203 (A)).** The pre-application
30 | conference is recommended but shall not be required.
31 |
32 | (B) **Staff Review of Application. Referrals (6-1204 (A)).** Upon acceptance
33 | of the application, the Planning Director shall forward a copy of the
34 | application to the Department of Building and Development, the Zoning
35 | Administrator, and the Virginia Department of Transportation, and shall
36 | set the application for public hearing to be held at the first Planning
37 | Commission public hearing scheduled to occur after the sixtieth (60th)
38 | day following acceptance of the application.
39 |
40 | (C) **Referral Responsibilities (6-1204 (B)).** Each reviewing agency shall,
41 | within thirty (30) calendar days of the receipt of a referral, prepare a staff
42 | report which sets out in writing its comments and recommendations and
43 | shall forward such report to the Director of Planning.
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1 (D) **Review of Referrals (6-1204 (C)).** Referral comments shall be reviewed
2 by the Director of Planning within fifty (50) days after an application has
3 been accepted. The Planning Director shall forward to the applicant
4 within five (5) working days of receipt of all referral comments and a
5 written review of the issues raised by the application.

6 (E) **Hearing Before Board of Supervisors (6-1212).** No later than forty
7 (40) calendar days after the Planning Commission public hearing, a duly
8 noticed public hearing shall be held by the Board of Supervisors
9 regarding an application for rezoning to the RR-1 or RR-2 Districts.
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DIVISION G: CONSERVATION DESIGN

3 **Section 6-2000 Conservation Design.**

4 **6-2001 Purpose and Intent.** These provisions are intended to:

- 5 (A) Consider the resources on a site and surrounding areas and detail a process
6 whereby development is designed around a property's natural and historic
7 features.
- 8 (B) Conserve open land, including those areas containing unique and sensitive
9 natural features such as rivers and streams and associated 100 year
10 floodplains, karst features, very steep slopes, and areas required to be
11 protected by applicable federal and state laws and regulations.
- 12 (C) Retain and protect existing environmental, natural, and heritage resources.
- 13 (D) Create a linked network of open spaces;
- 14 (E) Provide full density credit and allow for a diversity of lot sizes, building
15 densities, and housing choices to accommodate a variety of age and
16 income groups and residential preferences;
- 17 (F) Promote rural economy uses;
- 18 (G) Provide reasonable economic use of the property; and
- 19 (H) Impose, as necessary, conditions of approval to safeguard the public
20 health, safety, and welfare.

22 **6-2002 Applicability and Exemptions.**

- 23 (A) **General.** The applicant shall follow the requirements in this Section 6-
24 2000 and shall submit a conservation design plan preceding submittal of
25 the applications specified in 6-2002(C). County approval of a
26 conservation design plan is required prior to any land disturbing activity,
27 except as exempted pursuant to Section 6-2002(C).
- 28 (B) **Applicability Zoning Districts.** The standards and procedures
29 contained in this section shall apply only to the following zoning districts
30 and applicable subdistricts as specified therein:
- 31 (1) AR-1 Agricultural Rural 1
- 32 (2) AR-2 Agricultural Rural 2
- 33 (3) TR-1 Transitional Residential 1

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- (4) TR 2 Transitional Residential 2
- (5) TR 3 Transitional Residential 3
- (6) TR 10 Transitional Residential 10
- (7) JLMA 1 Joint Land Management Area 1
- (8) JLMA 2 Joint Land Management Area 2
- (9) JLMA 3 Joint Land Management Area 3
- (10) JLMA 20 Joint Land Management Area 20
- (11) PD CV Planned Development Countryside Village

(C) ~~Applicability Development Applications.~~ The standards in this Section 6 2000 shall apply when the applicant is required to submit the following application types:

- (1) ~~Subdivision, including preliminary subdivision plat, as set forth in Section 6 800, "Subdivision Approval," of the Zoning Ordinance and Chapter 1243, "Subdivision Procedures," of the Land Subdivision Development Ordinance (LSDO). Lots that have been reviewed and created pursuant to this Section 6 2000 shall not be required to go through the conservation design process again.~~
- (2) ~~Site plan, as set forth in Section 6 700, "Site Plan Review," of the Zoning Ordinance and Chapter 1244, "Site Plan Procedures," of the LSDO unless the parcel subject to the site plan has already been reviewed and approved pursuant to this Section 6 2000.~~

(D) ~~Exemptions.~~ This Section 6 2000 shall not apply to land disturbing activity or development of sites that are specifically exempt, as set forth in subsections (1) through (5) below:

- (1) ~~Single Family Dwelling on Existing Legal Lot.~~ A legal lot of record which lot was in existence on January 7, 2003 may be developed for a single family detached dwelling use. Development on such lot shall be subject to all other applicable standards in this Zoning Ordinance, including:
 - (a) Section 4 1600, Mountainside Development Overlay District (MDOD);
 - (b) Section 4 1900, Limestone Conglomerate Overlay District (LOD);

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- 1 (e) Section 4 2000, River and Stream Corridor Overlay District
2 (RSCOD);
3 (d) Section 5 1508, Steep Slope Standards; and
4 (e) All other applicable federal, state, or local regulations.
- 5 (2) This exemption shall not apply to non residential development.
6 All non residential development on a legal lot of record, which lot
7 was in existence on January 7, 2003, shall be subject to this
8 Section 6 2000.
- 9
- 10 (3) **Agricultural Operations and Certain Rural Economy Uses.**
11 This section shall not apply to agricultural operations that are
12 covered by a Conservation Farm Management Plan, approved by
13 the Loudoun County Soil and Water Conservation District or the
14 U.S. Natural Resources and Conservation Service that includes
15 best management practices, nor shall it apply to certain rural
16 economy uses listed below. Structures associated with agricultural
17 operations are not exempt from environmental provisions;
18 however, the following rural economy uses are exempt from
19 Section 6 2000:
20
- 21 (a) Agriculture;
22 (b) Horticulture;
23 (c) Animal Husbandry; and
24 (d) Agricultural support and services directly associated with
25 ongoing agricultural, horticulture, and animal husbandry
26 activities on site.
- 27 (4) **Timber Harvesting.** Timber harvesting shall be conducted only
28 in conformance with a Forest Management Plan approved by both
29 the Virginia Division of Forestry and the County.
- 30 (5) **Route 28 Highway Transportation Improvement District.** Any
31 property within the Route 28 Highway Transportation
32 Improvement District shall be exempt from this Section 6 2000
33 unless the owner or developer of the property voluntarily requests
34 that such procedures apply.
- 35 (6) **Minor Land Disturbing Activities.** Activities that will disturb
36 less than 5,000 square feet in area and less than 18 inches in depth
37 and that are not required to obtain a building permit are exempt.

38 **6-2003 Review Procedures/Administration.**

- 39 (A) **Conservation Design Plan Review Procedures.**

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- 1 (1) ~~General.~~ Any development application specified in Section 6
2 2002(C) in the zoning districts designated in Section 6 2002(B)
3 shall require County approval of a conservation design plan. The
4 County shall grant approval for a conservation design plan only
5 upon compliance with the following provisions:
- 6 (a) ~~The applicant shall submit a conservation design plan to the
7 County prior to or concurrently with the initial submission
8 for approval of any application type set forth in Section 6
9 2002(C).~~
- 10 (b) ~~The conservation design plan shall demonstrate compliance
11 with the standards established in this Section 6 2000.~~
- 12 (c) ~~Deviation from the approved conservation design plan
13 without obtaining County approval shall require corrective
14 measures to be taken by the landowner to remedy the
15 discrepancy. The necessary corrections shall be made
16 within ten (10) working days from the date the landowner
17 is notified by the County of the deviation. Remediation
18 activities shall be required to restore and/or replace the
19 nonconforming areas to meet the County approved
20 conservation design plan. Delay of required remediation
21 activities beyond the ten (10) working day period shall
22 constitute a violation of this Zoning Ordinance, and is
23 punishable by fine as set forth in Section 6 500,
24 “Enforcement and Penalties.”~~
- 25 (d) ~~The Board of Zoning Appeals shall review any appeals
26 from determination by County staff or the Zoning
27 Administrator taken pursuant to the standards in this
28 Section 6 2000.~~

29 (2) Conservation Design Process:

- 30 (a) Step 1 Site Analysis Map.
- 31 (i) ~~Contemporaneously with submission of any
32 application type set forth in Section 6 2002 (C), the
33 applicant shall prepare a site analysis map that
34 provides information about existing site conditions
35 and context, and that comprehensively analyzes
36 existing conditions both on the proposed
37 development site and on property within 500 feet of
38 the site. It is the intent of this section that the
39 information required to be presented in the site
40 analysis map be produced primarily from existing
41 sources, maps, and data.~~

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(ii) The applicant shall follow the site analysis map preparation requirements set forth in the Facilities Standards Manual.

(b) Step 2 Site Inspection:

(i) After submitting the site analysis map, the applicant shall schedule a site inspection of the property by the staff and shall provide copies of the draft site analysis map prior to the on site meeting. The purpose of this site visit is to:

1. Familiarize staff with the property's existing conditions and special features;
2. Identify potential site development issues; and
3. Provide an opportunity to discuss site development concepts, including the general layout of primary conservation areas, rural economy conservation lands, and open space as applicable, as well as potential locations for proposed structures, utilities, roads, and other development features. Comments made by officials or staff shall be interpreted as being only suggestive. No official decisions shall be made during the site inspection.

(ii) The applicant shall provide a permission form to allow staff to enter the property.

(iii) County staff shall schedule the site inspection within ten (10) days of site analysis map submittal and shall invite the applicant to participate in site inspection.

(c) Step 3 Conservation and Development Areas Map:

(i) The applicant shall prepare a map to identify primary conservation areas, rural economy conservation lands, and open space areas, as applicable, and the development delineation area (DDA), in accordance with the delineation requirements described in Section 6.2004, "Delineation of Primary Conservation Areas, Rural Economy Conservation Lands, and Open Space Areas" below.

(d) Step 4 Conservation Design Plan:

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1 (i) The applicant shall follow submission requirements
2 for a conservation design plan in accordance with
3 the delineation requirements, described in Section
4 6-2004 below. The conservation design plan
5 submittal shall include the following components:

- 6 1. Site Analysis Map;
7 2. Conservation and Development Areas Map;
8 3. Preliminary Site Improvements Plan,
9 showing proposed site development,
10 including minor utilities, roads, other
11 development features, and lot lines, that
12 includes the DDA; and
13 4. Preliminary studies and reports as required
14 in other sections of the Zoning Ordinance
15 and Facilities Standards Manual.

16 **6-2004 Delineation of Primary Conservation Areas, Rural Economy Conservation**
17 **Lands, and Open Space Areas.**

18 (A) **Primary Conservation Area Delineation.**

19 (1) The applicant shall delineate "primary conservation areas" on a
20 conservation and development areas map, based on the
21 requirements set forth in the following sections of the Zoning
22 Ordinance:

- 23 (a) Section 4-1600, Mountainside Development Overlay
24 District (MDOD);
25 (b) Section 4-1905(B), Karst Feature Buffers within the
26 Limestone Conglomerate Overlay District (LOD);
27 (c) Section 4-2000, River and Stream Corridor Overlay District
28 (RSCOD);
29 (d) Section 5-1508(C)(2)(b), Very Steep Slope Areas ; and
30 (e) Areas required to be protected by applicable federal and
31 state laws and regulations.

32 (2) One hundred percent (100%) of the primary conservation areas
33 shall be included in and credited against the rural economy
34 conservation lands and/or open space requirements as applicable of
35 the relevant zoning districts. However, if land in the primary
36 conservation areas exceed the rural economy conservation lands
37 an/or open space requirements, as applicable, such land shall be
38 protected pursuant to the provisions of the applicable overlay
39 districts and development standards.

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1 (B) **Rural Economy Conservation Lands Delineation (AR-1 and AR-2**
2 only). The applicant shall delineate rural economy conservation lands in
3 the applicable AR zoning district. The total Rural Economy Conservation
4 Lands to be set aside shall at a minimum be equal to the amount of
5 property needed to satisfy the minimum zoning district open space
6 requirement. However, if the amount of primary conservation areas
7 required to be protected by this ordinance exceeds the applicable zoning
8 district open space requirement, the primary conservation areas in their
9 entirety shall be protected pursuant to the provisions of the applicable
10 overlay zoning districts or development standards.

11 (C) **Open Space Delineation (all other districts).** The applicant shall
12 delineate open space on the basis of the minimum percent open space
13 required in each zoning district. The total open space required to be
14 protected shall at a minimum be comprised of the sum of primary
15 conservation areas and additional open space needed to satisfy the
16 minimum zoning district open space requirements. However, if the
17 amount of primary conservation areas required to be protected by this
18 ordinance exceeds the applicable zoning district open space requirement,
19 the primary conservation areas in their entirety shall be protected pursuant
20 to the provisions of the applicable overlay districts and development
21 standards.

22 (D) **Development Delineation Area (DDA).** After identifying the primary
23 conservation areas, rural economy conservation lands, and/or open space
24 on a site, as applicable, the applicant shall identify a DDA within which
25 development may occur pursuant to Section 6.2006(B). DDA's may be
26 multiple and non contiguous on a site.

27 6-2005 Conservation Areas and Open Space Permitted Uses and Activities.

28 (A) **Primary Conservation Areas.** Only the uses and activities permitted in
29 the environmental overlay districts or very steep slope areas listed in
30 Section 6.2004(A)(1) shall be permitted in primary conservation areas.

31 (B) **Rural Economy Conservation Lands (AR-1 and AR-2 Districts).**
32 Land disturbing activity as part of a development project or subdivision
33 shall not occur in the designated rural economy conservation lands
34 except for the following uses and activities:

35 (1) Open space uses as set forth in the definition of "open space" in
36 Article VIII and the rural economy uses allowed as part of a
37 residential cluster option in the AR districts pursuant to Section 5
38 703(C)(2)(a);

39 (2) Conservation practices that protect or enhance the value(s) of the
40 resource;

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- 1 (3) Disturbance or construction activity in the rural economy
2 conservation lands may occur with County approval, for the
3 following additional limited purposes:
- 4 (a) Mitigation of development activities;
5 (b) Restoration of previously disturbed or degraded areas to
6 enhance habitat values or other natural resource values;
7 (c) Construction of a trail or pedestrian walkway that will
8 provide public access for educational purposes;
9 (d) Provision of individual septic systems or communal
10 wastewater systems package sewage disposal systems
11 when such systems cannot reasonably be contained within
12 the DDA or other nearby developed areas;
13 (e) Provision of wells and water supply systems when such
14 systems cannot reasonably be contained within the DDA or
15 other nearby developed areas;
16 (f) Construction of stormwater management systems when
17 such systems cannot reasonably be contained within the
18 DDA or other nearby developed areas; and
19 (g) Utility installations and emergency public safety activities
20 when such utilities and activities cannot reasonably be
21 contained within the DDA or other nearby developed areas.
22 (i) Construction, installation, and maintenance of
23 utilities shall comply with all applicable state and
24 federal requirements and permits.
25 (ii) Utilities shall be designed and constructed in a
26 manner that protects primary conservation areas.
27 (iii) No more land shall be disturbed than is necessary to
28 provide for the proposed utility or activity.

29 (C) Open Space In the TR Districts. Land disturbing activity as part of a
30 development project or subdivision shall be limited in the delineated open
31 space to the following uses and activities:
32

- 33 (1) Open space uses as set forth in the definition of "open space" in
34 Article VIII and uses allowed in the open space as part of the
35 residential cluster option in the TR Districts as set forth in Section
36 5-701.
37 (2) Conservation practices that protect or enhance the value(s) of the
38 resource;

- 1 (3) ~~Disturbance or construction activity in open space may occur with~~
2 ~~County approval, for the following additional limited purposes:~~
- 3 (a) ~~Mitigation of development activities;~~
4 (b) ~~Restoration of previously disturbed or degraded areas to~~
5 ~~enhance habitat values or other natural resource values;~~
6 (c) ~~Construction of a trail or pedestrian walkway that will~~
7 ~~provide public access for educational purposes;~~
8 (d) ~~Provision of individual septic systems or communal~~
9 ~~wastewater systems package sewage disposal systems~~
10 ~~when such systems cannot reasonably be contained within~~
11 ~~the DDA or other nearby developed areas;~~
12 (e) ~~Provision of wells and water supply systems when such~~
13 ~~systems cannot reasonably be contained within the DDA or~~
14 ~~other nearby developed areas;~~
15 (f) ~~Construction of stormwater management systems when~~
16 ~~such systems cannot reasonably be contained within the~~
17 ~~DDA or other nearby developed areas; and~~
18 (g) ~~Utility installations and emergency public safety activities~~
19 ~~when such utilities and activities cannot reasonably be~~
20 ~~contained within the DDA or other nearby developed areas.~~
21 (i) ~~Construction, installation, and maintenance of~~
22 ~~utilities shall comply with all applicable state and~~
23 ~~federal requirements and permits.~~
24 (ii) ~~Utilities shall be designed and constructed in a~~
25 ~~manner that protects primary conservation areas.~~
26 (iii) ~~No more land shall be disturbed than is necessary to~~
27 ~~provide for the proposed utility or activity.~~

- 28 (D) ~~Open Space (all other districts). Land disturbing activity as part of a~~
29 ~~development project or subdivision shall be limited in the delineated open~~
30 ~~space to the following uses and activities:~~
- 31 (1) ~~Open space uses as set forth in the definition of "open space" in~~
32 ~~Article VIII.~~
33 (2) ~~Conservation practices that protect or enhance the value(s) of the~~
34 ~~resource;~~
35 (3) ~~Disturbance or construction activity in open space may occur with~~
36 ~~County approval, for the following additional limited purposes:~~
- 37 (a) ~~Mitigation of development activities;~~

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- 1 (b) Restoration of previously disturbed or degraded areas to
 2 enhance habitat values or other natural resource values;
 3 (c) Construction of a trail or pedestrian walkway that will
 4 provide public access for educational purposes;
 5 (d) Provision of individual septic systems or communal
 6 wastewater systems package sewage disposal systems
 7 when such systems cannot reasonably be contained within
 8 the DDA or other nearby developed areas;
 9 (e) Provision of wells and water supply systems when such
 10 systems cannot reasonably be contained within the DDA or
 11 other nearby developed areas;
 12 (f) Construction of stormwater management systems when
 13 such systems cannot reasonably be contained within the
 14 DDA or other nearby developed areas; and
 15 (g) Utility installations and emergency public safety activities
 16 when such utilities and activities cannot reasonably be
 17 contained within the DDA or other nearby developed areas.
 18 (i) Construction, installation, and maintenance of
 19 utilities shall comply with all applicable state and
 20 federal requirements and permits.
 21 (ii) Utilities shall be designed and constructed in a
 22 manner that protects primary conservation areas.
 23 (iii) No more land shall be disturbed than is necessary to
 24 provide for the proposed utility or activity.

25 **6-2006 Conservation Design Standards.**

- 26 (A) Configuration of Primary Conservation Areas, Rural Economy
 27 Conservation Lands, and Open Space Areas The applicant shall
 28 configure, rural economy conservation lands (in the AR-1 and AR-2
 29 districts), and open space (in non AR-1 and AR-2 districts) in a manner to:
 30 (1) Conform with adopted open space and trail plans, where
 31 applicable;
 32 (2) Provide contiguity with other open space, agricultural lands, and
 33 conservation areas both on and off site, except that maintaining
 34 contiguity with agricultural lands is not necessary in non-
 35 agricultural districts;
 36 (3) Protect unique site features and resources;

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- 1 (4) Provide a minimum buffer width of 100 feet from adjacent public
2 parkland, within which no new structures shall be constructed, nor
3 shall any clearing of forests take place.
- 4 (5) Provide a minimum buffer width of 100 feet from existing
5 agricultural activities in agricultural districts; and
- 6 (6) Avoid fragmentation of primary conservation areas.

7 (B) **Development Delineation Area (DDA) Configuration.** The applicant
8 shall configure the DDA according to the following criteria:

- 9 (1) In all cases the DDA shall be located outside of all primary
10 conservation areas. In addition, for all subdivision applications, the
11 DDA shall be located outside the designated Rural Economy
12 Conservation Lands and the open space area, as applicable. The
13 DDA may be multiple and non contiguous on a site and shall
14 indicate the specific area(s) of a site within which:
- 15 (a) Land disturbing activity, including clearing and grading,
16 shall be contained;
- 17 (b) Ingress and egress for development may be provided;
- 18 (c) "Building envelope(s)" of sufficient size to permit
19 reasonable use of the property shall be located; and
- 20 (d) Wells and septic systems are appropriately located based on
21 required hydrogeologic testing, and in accordance with
22 applicable requirements in Chapter 8 of the Facilities
23 Standards Manual.
- 24 (2) **Field Designation.** The DDA shall be designated in the field prior
25 to commencement of excavation, grading, or construction with
26 construction barrier fencing or other methods approved by staff.

27 (C) **Roads, Driveways, Minor Utilities.** The applicant shall align roads,
28 driveways, and minor utilities according to standards set forth in the
29 Facilities Standards Manual and the following criteria:

- 30 (1) The road plan shall provide vehicular access to each house.
- 31 (2) The alignment of roads, driveway, and minor utilities shall
32 minimize impacts on primary conservation areas.

33 (D) **Pedestrian and Maintenance Access.** Pedestrian and maintenance
34 access to commonly owned open space, if any, shall be provided in
35 accordance with the following requirements:

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- 1 (1) For commonly owned open space, as defined in the Zoning
2 Ordinance, each neighborhood or cluster shall provide at least one
3 centrally located access point per fifteen (15) lots. The access
4 easement shall be a minimum of thirty five (35) feet wide.
5
6 (2) Pedestrian access to conservation land or open space used for
7 agriculture or rural economy uses may be appropriately restricted
8 for public safety and to prevent interference with agricultural
9 operations or rural economy use.
10
11 (3) Pedestrian access to primary conservation areas may be
12 appropriately restricted to protect resources.

13 (E) **Density/Intensity Calculations:**

- 14 (1) The gross land area located within any portion of a required
15 primary conservation area shall be included as part of the total land
16 area for purposes of calculating the permitted floor area and
17 number of residential units in the underlying zoning district and
18 open space. Development of the floor area and number of
19 residential units allowed in the underlying zoning district shall
20 occur in the DDA.
21
22 (2) Up to 100% of density that would be allowed on the gross land
23 area of the subject property shall be located within the DDA
24 portions of the same property. Lot size and dimensions shall
25 comply with applicable zoning district cluster subdivision
26 standards if a cluster subdivision is being developed.

27 6-2007 **Reasonable Economic Use of Property.** It is the intent of this Section 6
28 2000 that landowners be provided a reasonable economic use of property. If
29 the requirements of this Section deny all reasonable economic use of property,
30 a landowner may seek a variance in accordance with Section 6-1607,
31 “Standards for Variances,” of this Zoning Ordinance.

32 6-2008 **Ownership and Maintenance of Rural Economy Conservation Lands and**
33 **Open Space.**

34 (A) **Restriction on Future Subdivision and Development.** All primary
35 conservation areas, rural economy conservation lands, and open space
36 delineated as part of the conservation design process shall be permanently
37 restricted from future subdivision and/or development, as applicable,
38 through an easement granted to Loudoun County.

39 (B) **Ownership Options.** The applicant shall propose measures or methods
40 for long term ownership of rural economy conservation lands and open
41 space areas. The methods that may be used, include but are not limited to
42 fee simple dedication to the County with county approval, ownership by a
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2 homeowner association, retention of ownership by the developer or owner,
3 or transfer of title to a private conservation organization.

4

(C) ~~Management and Maintenance of Rural Economy Conservation Lands and Open Space Areas.~~

5 (a) ~~Unless otherwise agreed to by the County or unless the land~~
6 ~~is dedicated to the County, the cost and responsibility of~~
7 ~~maintaining conservation areas and open space areas shall~~
8 ~~be borne by the property owner, condominium/homeowner~~
9 ~~association, conservation organization, or other entity as~~
10 ~~identified pursuant to Section 6-2008 (B), above.~~

11 **6-2009 Incentives and Flexibility.**

12 (A) ~~Incentives for Resubmission and Redesign of Existing Approved But~~
13 ~~Undeveloped Subdivisions.~~ For the purpose of encouraging the
14 resubmittal and redesign of existing approved but undeveloped
15 subdivisions in the AR, TR, and JLMA zoning districts that do not meet
16 the purposes or standards of the Environmental Overlay Districts (MDOD,
17 LOD, RSCOD) and Steep Slope regulations, and principles of
18 Conservation Design, the County may grant the following incentives to an
19 applicant:

- 20 (1) ~~Allow the full number of lots achievable under the approved~~
21 ~~subdivision plat to be located within the Designated Development~~
22 ~~Area by allowing lot sizes to be reduced below the minimum~~
23 ~~required in the underlying zoning district.~~
- 24 (2) ~~Reduce the applicable zoning district open space requirement by~~
25 ~~twenty five percent (25%).~~
- 26 (3) ~~Allow a full credit against the applicable open space requirement~~
27 ~~for all primary conservation areas, including RSCOD.~~
- 28 (4) ~~A reduction or elimination of applicable zoning district~~
29 ~~dimensional standards, including but not limited to height, lot~~
30 ~~width, yards, lot coverage, and buffers/setbacks.~~
- 31 (5) ~~Use of the Rural Economy Conservation Lands or open space areas~~
32 ~~as applicable, may be allowed pursuant to underlying zoning~~
33 ~~districts.~~

34 (B) ~~Zoning District Flexibility Provisions.~~ For all development subject to
35 the requirements of Conservation Design, certain zoning district
36 dimensional and development standards may be modified as provided
37 below to provide flexibility in achieving the purposes of this section and

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1 compliance with the Environmental Overlay District (RSCOD, LOD, and
2 MDOD) and Steep Slope requirements:

3 (1) ~~Minimum Lot Size~~: No minimum.

4 (2) ~~Minimum Lot Width~~: No minimum.

5 (3) ~~Minimum Yards~~:

6 (a) ~~Residential~~: No minimum

7 (b) ~~Nonresidential (minimum)~~:

8 (i) ~~Front~~: 15 feet

9 (ii) ~~Side~~: 9 feet ~~Rear~~

10 (iii) ~~Rear~~: 15 feet

11 (4) ~~Height (maximum)~~: 45 feet (residential); 55 feet, without
12 additional setbacks being required (nonresidential)

13 (5) ~~Parking (nonresidential only)~~: Twenty five percent (25%)
14 reduction in the required off street parking space requirement as
15 set forth in Section 5-1102.

16 (6) ~~Buffering and Screening~~: To the extent necessary to
17 accommodate the density/intensity of development allowed in the
18 underlying zoning district, the Zoning Administrator may waive or
19 reduce the buffer yard requirements set forth in Section 5-1400
20 upon a showing that the building and/or yard has been designed to
21 minimize adverse impacts through a combination of architectural,
22 landscape, and/or design techniques.

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